

THE WA

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# Fairfax Ponders Burling Tract Suit

**BURLING, From C1**

The developer is not precluded from starting to grade roads for the want of a building permit. On this point, Hoofnagle noted: "I'm confident Miller & Smith will not take precipitous action to destroy the natural vegetation of the area."

The hiring of Adams does not commit the county to filing a suit for the land, for which county officials say Miller & Smith paid \$2.4 million.

A condemnation suit, which sometimes takes months to complete, would be heard in Fairfax Circuit Court and decisions could be appealed by either party to higher courts.

Condemnation proceedings in Virginia might take one of two forms:

In one type, a property owner, in this case Miller & Smith, retains the title to the land and can proceed with whatever construction it wants during the court hearings. The county would not have to decide whether to pay the condemnation award until after the court sets the amount.

In the second type, the county would be required to place at least its minimum offer, the \$2.5 million bid already rejected, in an escrow account. With the payment and a court ruling that condemnation is necessary, the county would gain title to the land, but also would be required to pay the final condemnation award, no matter how high it might be.

The county, which has earmarked \$3.6 million for the Burling purchase, does not currently have the cash in hand for the \$2.5 million escrow account, Hazel and county officials agree. However, in the past, Fairfax has been able to obtain short-term bank loans to keep construction and land acquisition programs on schedule.

If a negotiated settlement is not arrived at before Monday night the Supervisors will

then have to weigh the conditions of the two types of condemnation proceedings before giving Adams his instructions.

Hazel maintains that the Burling property value should be considered on an individual lot basis. He said the average lot is worth \$25,000 and one has been sold for that. This tract, more than twice what the county potentially has per lot figure would total \$7.725 million for the entire available.

Interior Secretary Walter J. Hickel, who has assured the county \$1.5 million in federal funds to purchase the land, yesterday praised Dranesville District residents for "working within the system" in successfully campaigning for the passage last week of a referendum obligating the district's taxpayers for up to \$1.5 million toward the park purchase.

## Fairfax Burling Suit Eyed

By Kenneth Bredemeier  
Washington Post Staff Writer

Fairfax County yesterday hired a condemnation lawyer in its bid to purchase the much-disputed Burling tract for a park after developers Miller & Smith refused to put a price tag on the land.

The move was the latest in a high-stakes battle between the county and the developers over the 336 acres of virgin wilderness along the Upper Potomac Palisades.

The developer, who wants to build 309 homes on the steeply sloped, forested land, acted—or refused to act—first.

The firm's lawyer, John T. Hazel Jr., told the county that the developer had not set a price on the land because the county's Board of Supervisors had not authorized anyone to negotiate with Miller & Smith in efforts to set a "realistic" purchase price.

Hazel informed the county of his client's position at a seven-minute meeting with county officials yesterday afternoon. Within an hour, William S. Hoofnagle, chairman of the Board of Supervisors, announced that a condemnation lawyer, John J. Adams, had been hired and would be given his instructions during a Board meeting Monday night.

Adams, who lives in McLean, is the resident Washington lawyer for the Richmond law firm of Hunton, Williams, Gay, Powell and Gibson. He has been an ardent supporter of preserving the Burling land as a park.

With yesterday's verbal sparring, Hazel again stated that construction on the project was imminent, but he refused to be more specific. For their part, the county Supervisors have told staff officials not to issue the firm building permits for the Burling project, although Hazel said he would challenge this in court.